

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

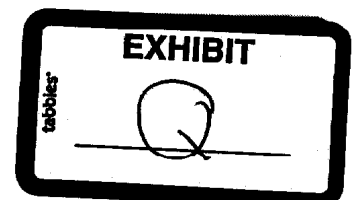
CIVIL ACTION NO. 04-11836-RCL

TRANS-SPEC TRUCK SERVICE, INC.)
d/b/a TRUCK SERVICE,)
Plaintiff)
vs.)
CATERPILLAR INC.)
Defendant)

AFFIDAVIT OF JOSEPH M. HOWARD, JR.,
IN SUPPORT OF PLAINTIFF'S MOTION TO AMEND

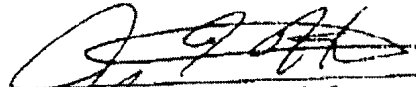
I, Joseph M. Howard, Jr., state:

- 1 am the President of Trans-Spec Truck Service, d/b/a Truck Service ("Trans-Spec").
- 2 Trans-Spec's Automatic Disclosures, tendered on November 10, 2004, document more
than sixteen separate flywheel housing repairs performed in house by Trans-Spec on the
engines.
- 3 To date, Trans-Spec has had to make no less than eighteen in house repairs to the flywheel
 housings on the trucks at issue, in addition to performing other work related to the damage
 caused by the defective Caterpillar C-12 engines.
- 4 Trans-Spec had to purchase and install a new engine in one of the trucks at issue.
- 5 Caterpillar had full knowledge, in advance, of the repair work performed by Trans-Spec,
 and Milton CAT's Al Cardoza routinely inspected the repair work following its
 completion.
- 6 Nonetheless, and in full breach of its warranty obligations, Caterpillar declined to
 reimburse Trans-Spec in any way for either parts or labor associated with these repairs.



7. Trans-Spec asserts a bona fide claim based on its good faith belief that Caterpillar negligently designed, developed, assembled, manufactured, inspected, tested, marketed, advertised, and distributed the C-12 engines purchased by Trans-Spec
8. Thus far, other than attorney-produced materials, Trans-Spec has fully opened its files to **Caterpillar.**
9. Caterpillar already has access to all of Trans-Spec's documentation
10. The damage caused by Caterpillar's defective engine units was not confined to the engines alone.
11. Caterpillar's defective engine units not only caused damage to other critical systems throughout Trans-Spec's trucks, they caused oil leaks which damaged Trans-Spec's property and that of Trans-Spec's customers

SIGNED UNDER THE PENALTIES OF PERJURY THIS 19 DAY OF APRIL, 2005.


Joseph M. Howard, Jr.

CERTIFICATE OF SERVICE

I, Christian G. Samito, hereby certify that on this 14th day of April, 2005, I served a copy of the foregoing, by mail, postage prepaid to:

John A. K. Grunert, Esq.
Christopher Howe, Esq.
Campbell Campbell Edwards & Conroy
One Constitution Plaza, 3rd Floor
Boston, MA 02129


Christian G. Samito, Esq.

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